



## 2<sup>ND</sup> REQUEST FOR FEEDBACK

### AMENDMENTS TO GAS ACT (CAP 116A)

Closing date for submissions of comments and feedback:  
15 January 2007, 11:59pm

**Note: There will be no extension of deadline beyond 15 January 2007, 11:59pm**

**26 DEC 2006** | ENERGY MARKET AUTHORITY  
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The information in this Request for Feedback is not to be treated by any person as any kind of advice. The Energy Market Authority and the Ministry of Trade & Industry shall not be liable for any damage or loss suffered as a result of the use of or reliance on the information given in this Request for Feedback. The information contained within this document is to be considered draft and further amendments to the Gas Act not covered in this document or dissimilar as indicated in this document may be introduced.

## **INTRODUCTION**

1. The Government announced in Mar 2000 its policy decisions to restructure the gas industry to facilitate competition in gas import and retail, with transportation to be undertaken by a single entity – PowerGas Ltd. The Gas Act (Cap. 116A) (the “Gas Act”) was passed in Mar 2001 to establish the regulatory framework for this.
2. It is proposed that the Gas Act be amended to implement the Government’s policies. This will allow new gas importers and retailers to have open competitive access to the gas pipeline infrastructure, and enhance the security of Singapore gas system. It will also provide potential investors with greater clarity of the regulatory regime in the gas industry.
3. EMA invited comments from the public on the first draft of the proposed amendments to the Gas Act on 13 Feb 2006. The feedback received and EMA’s assessment of the feedback are posted for public reference. EMA has revised the proposed amendments based on the feedback received and other considerations, and invites comments from the public on the second draft of the proposed amendments.

## **OPEN ACCESS POLICY**

4. A key tenet that underpins Singapore’s policies in the gas market is open access to gas pipeline infrastructure. Without open access to pipeline infrastructure, there will not be a level playing field in the gas market. A level playing field allows for competition, and this will ultimately benefit consumers as producers and retailers will be incentivised to greater levels of efficiency and price competitiveness.

## **FRAMEWORK OF THE DRAFT AMENDMENTS**

5. The key further amendments of this second draft in addition to the amendments circulated in the first round of consultation include the following.

### Licensing Regime

6. With the Government announcement on 7 August 2006 on the import of liquefied natural gas (LNG) into Singapore and the gas import control policy, it is proposed that importers of LNG and any other form of natural gas be licensed. To facilitate open access to any LNG terminal, it is further proposed that the operator of a LNG terminal be licensed. Given that LNG terminals will be strategic injection points for gas into the gas network in Singapore, any LNG terminal should be subject to special administrative orders should the need arise.

## Measures to Ensure Open Access to Gas Network

7. To have open access to the gas pipeline infrastructure, a Gas Network Code has to be imposed on all shippers. It is proposed that the Gas Network Code has effect of contract, and that the gas transporter and any relevant gas shipper are deemed to have agreed to observe and perform the provisions of the Gas Network Code. It is proposed that the Gas Act stipulates that the initial Gas Network Code must be issued by EMA, and that all changes to the Gas Network Code shall require EMA's approval. In addition, the Gas Network Code is to be modified as may be directed by EMA.

8. It is proposed that the open access regime in the Gas Act be amended to facilitate the liberalization of the new gas market. The amendments to Section 38 include the following –

- (a) to empower EMA to issue directions to a relevant facility owner to grant access to the relevant facility to persons who require such access regardless of whether such directions would prejudice the performance of the relevant facility owner's contractual obligations;
- (b) to empower EMA to direct the owner of the relevant facility to adjust the charges imposed by the owner on existing users of the facility when EMA directs the owner to grant a person access to the facility;.
- (c) to prescribe the penalties for the offence of not complying with any direction of EMA;
- (d) to provide that any person who does any act which has or is likely to have the effect of obstructing, hindering or preventing the owner of the facility from complying with EMA's directions is guilty of an offence; and
- (e) to confer immunity from legal proceedings on a person who complies with EMA's directions.

9. In conjunction with the above, it is proposed that the Gas Act be amended to empower EMA to require users of a relevant facility to enter into an arrangement for the allocation of gas. This is to enable third party access, if parties cannot come to an agreement of their own accord. This prevents a situation where an existing user attempts to block third party access by refusing to negotiate a gas allocation arrangement.

## Strengthening Regulatory Powers

10. **Control of ownership of critical infrastructure:** Based on feedback from the industry and on further developments in legislation, EMA has revised the sections on control of ownership of critical infrastructure. The provisions

are to apply prospectively and a new section on exempted transactions has been created.

### Other General Amendment

11. **Clarity on powers and obligations of shippers:** For consistency, it is proposed to amend the Act to ensure that shippers in shipping gas to their end users be accorded powers and obligations similar to that of gas retailers.

### **MODE OF FEEDBACK**

12. EMA invites comments and feedback on the proposed amendments to the Act as set out in Appendix 1.

13. Written comments may be sent through the following means:

Email: leow\_leng\_chong@ema.gov.sg and

lim\_khoon\_huat@ema.gov.sg

Post/Courier:

Deputy Director (Systems Development & Assessment)

Energy Market Authority

111 Somerset Road, #15-05

Singapore 238164.

Fax: (65) 68358084

14. Parties that submit feedback should organise their submissions as follows:

- a. Cover page (including the information specified in paragraph 15 of this document);
- b. Table of contents;
- c. Summary of major points;
- d. Statement of interest;
- e. Comments (using the format given in Appendix 2); and
- f. Conclusion.

15. Supporting material may be placed in an annex. All submissions should be clearly and concisely written, and should provide detailed reasons for any proposed revision to the draft amendments to the Gas Act. Parties should identify the specific provision of the draft amendments on which they are commenting (Please submit comments in the format as shown in Appendix 2). In any case in which a party chooses to suggest revisions to the text of the draft amendments, the party should state clearly the specific changes to the text that they are proposing.

16. All comments or feedback should be made **on or before 11:59pm, 15 January 2007**. There will be no extension of deadline beyond 15 January

2007, 11:59pm. Submissions must be submitted in both hard and soft copies (**in Microsoft Word format**). Parties submitting comments should include their personal/company particulars as well as their correspondence address, contact numbers and email addresses on the cover page of their submissions.

17. Anonymous submissions will not be considered.

18. EMA will acknowledge receipt of all submissions. Please contact Mr Lim Khoon Huat if you have not received an acknowledgement of your submission within two business days.

19. EMA reserves the right to make public all or parts of any written submission made in response to this 2<sup>nd</sup> Request for Feedback and to disclose the identity of the source. Any part of the submission, which is considered by respondents to be commercially sensitive, should be clearly marked and placed in a confidential annex. EMA will take this into account regarding disclosure of the information submitted. EMA will not accept any submission that requests confidential treatment of all or a substantial part of the submission.

**DRAFT AMENDMENTS TO THE GAS ACT (CAP. 116A)**

**(THIS DRAFT IS STILL UNDER REVIEW BY THE ATTORNEY GENERAL'S CHAMBERS.)**

**Short title and commencement**

1. This Act may be cited as the Gas (Amendment) Act 2006 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

**Amendment of section 2**

2. Section 2 of the Gas Act is amended —

(a) by inserting, immediately after the definition of “check meter”, the following definition:

“ “code of practice” means a code of practice issued or modified by the Authority under section 62;”;

(b) by deleting the words “the gas pipeline network of that gas transporter” in paragraph (a) of the definition of “direct access customer” and substituting the words “a gas pipeline network owned by, or under the management or control of, that gas transporter”;

(c) by inserting, immediately after the definition of “direct access customer”, the following definition:

“ “director” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);”;

(d) by inserting, immediately after the definition of “document”, the following definition:

“ “earthworks” means —

(a) any act of excavating earth, rock, or other material (by whatever means) in connection with —

(i) any work for or relating to the construction, reconstruction, extension, renovation, alteration, demolition or repair of any building, road, railway, bridge, viaduct, flyover, sewer or sewage works;

(ii) any work for or relating to the laying, inspecting, repairing or renewing of any main, pipe, cable, fitting or other apparatus;

(iii) any soil investigation work; or

- (iv) such other works as are usually undertaken by a person carrying on business as a contractor in the construction industry or as a professional civil or structural engineer;
  - (b) any act of boring, dredging, jacking, levelling, piling or tunnelling on or under any premises or street by any mechanical means; or
  - (c) the driving or sinking of any earth rod, casing or tube into the ground;”;
- (e) by inserting, immediately after the word “person” in the definition of “exempt gas transporter”, the words “carrying out any activity specified in section 6(1)(a)”;
- (f) by inserting, immediately after the definition of “gas fitting”, the following definitions:
  - “ “gas importer” means a person holding a gas importer’s licence;
  - “gas importer’s licence” means a licence granted under section 7(3)(h);”;
- (g) by deleting the definitions of “gas licence” and “gas licensee” and substituting the following definitions:
  - “ “gas licence” means a licence granted under section 7(3);
  - “gas licensee” means a person holding a gas licence;”;
- (h) by inserting, immediately after the definition of “gas mains network”, the following definitions:
  - “ “Gas Network Code” means a code issued by the Authority under section 61B;
  - “gas pipeline” means a gas transmission pipeline, a gas main or a gas service pipe;”;
- (i) by deleting the words “, and “gas pipeline” shall be construed accordingly” in the definition of “gas pipeline network”;
- (j) by deleting the words “section 7(3)(b)” in the definition of “gas retailer’s licence” and substituting the words “section 7(3)(d)”;
- (k) by inserting, immediately after the words “owned by” in the definition of “gas service pipe”, the words “, or under the management or control of;”;
- (l) by inserting, immediately after the definition of “gas service worker”, the following definitions:
  - “ “gas shipper” means a person holding a gas shipper’s licence;

“gas shipper’s licence” means a licence granted under section 7(3)(c);”;

(m) by deleting the words “or operated by” in the definition of “gas supply system” and substituting the words “by, or under the management or control of,”;

(n) by deleting the words “gas reception facilities,” in the definition of “gas transmission pipeline”;

(o) by inserting, immediately after the definition of “gas transporter”, the following definitions:

“ “gas transport agent” means a person holding a gas transport agent’s licence;

“gas transport agent’s licence” means a licence granted under section 7(3)(b);”;

(p) by inserting, immediately after the definition of “hotwork”, the following definition:

“ “import”, in relation to natural gas or LNG, means to bring or cause to be brought into Singapore by any means, the natural gas or LNG from any place outside Singapore, other than any such natural gas or LNG in transit or to be transshipped;”;

(q) by inserting, immediately after the definition of “licensed gas service worker”, the following definitions:

“ “liquefied natural gas” or “LNG” means natural gas in its liquefied state;

“LNG terminal” means a facility located onshore or in Singapore waters which is used to receive, store or gasify LNG that is imported into Singapore and at which all or any of the following activities are carried out in relation to any LNG received at the facility which has been gasified:

(a) adjustment of pressure or flow rate;

(b) adjustment of temperature;

(c) filtering;

(d) metering;

“LNG terminal operator” means a person holding an LNG terminal operator’s licence;

“LNG terminal operator’s licence” means a licence granted under section 7(3)(f);”;

(r) by inserting, immediately after the definition of “natural gas”, the following definition:

“ “natural gas or LNG in transit” means any natural gas or LNG that is brought into Singapore by any means solely for the purpose of being taken out of Singapore by the same or any other means, without such natural gas or LNG being brought into an onshore receiving facility or LNG terminal, or kept at any place in Singapore, pending its being taken out of Singapore;”;

(s) by inserting, immediately after the definition of “occupier”, the following definitions:

“ “onshore receiving facility” means a facility located in Singapore upstream of an onshore gas pipeline network owned by, or under the management or control of, a gas transporter, and at which all or any of the following activities are carried out in relation to any gas received at the facility:

- (a) adjustment of pressure or flow rate;
- (b) adjustment of temperature;
- (c) filtering;
- (d) metering;

“onshore receiving facility operator” means a person holding an onshore receiving facility operator’s licence;

“onshore receiving facility operator’s licence” means a licence granted under section 7(3)(e);”;

(t) by deleting the words “and who has made arrangements in pursuance of which gas is conveyed to those premises” in the definition “relevant gas retailer”;

(u) by inserting, immediately after the definition of “relevant gas retailer”, the following definition:

“ “relevant gas shipper”, in relation to a consumer, means any gas shipper who ships gas to the premises of the consumer;”

(v) by deleting the words “shipping and” in the definition of “retail”;

(w) by deleting the definition of “shipping” and substituting the following definitions:

“ “shipping”, in relation to gas, means arranging with a gas transporter for gas to be introduced into, conveyed by and taken out of a gas pipeline owned by, or under the management or control of, the gas transporter, and “ship” shall be construed accordingly;

“standard of performance” means a standard of performance issued or modified by the Authority under section 62;”;

- (x) by inserting, immediately after the definition of “supply”, the following definition:
- “transship”, in relation to natural gas or LNG, means to bring or cause to be brought into Singapore the natural gas or LNG by any means solely for the purpose of taking it out of Singapore by the same or any other means —
- (a) where such natural gas or LNG is brought into an onshore receiving facility or LNG terminal, or kept at any place in Singapore, pending its being taken out of Singapore; and
- (b) whether or not such natural gas or LNG is subject to any processing pending its being taken out of Singapore;”;
- (y) by inserting, immediately after the words “petrochemical feedstock” in the definition of “town gas”, the words “or natural gas”; and
- (z) by deleting the full-stop at the end of the definition of “town gas” and substituting a semi-colon, and by inserting immediately thereafter the following definitions:
- “town gas producer” means a person holding a town gas producer’s licence;
- “town gas producer’s licence” means a licence granted under section 7(3)(g).”.

#### **Amendment of section 4**

##### **3. Section 4 of the Gas Act is amended —**

- (a) by inserting, immediately after subsection (1), the following subsection:
- “(1A) The power to require a person to furnish any document or information under subsection (1) includes the power —
- (a) to require that person, or any person who is or was an officer or employee of his, to provide an explanation of the document or information;
- (b) if the document or information is not furnished, to require that person to state, to the best of his knowledge and belief, where it is; and
- (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Authority in legible form.”; and
- (b) by inserting, immediately after subsection (6), the following subsection:

“(6A) The Authority shall be entitled without payment to keep any document or information, or any copy or extract thereof, furnished to it under subsection (1) or obtained under subsection (6).”.

#### **Amendment of section 5**

4. Section 5 of the Gas Act is amended by deleting subsections (3) and (4) and substituting the following subsections:

“(3) A person aggrieved by a notice under subsection (2)(b) may appeal to the Minister under section 93(1)(a) within 7 days of the date of giving of the notice.

(4) Subsection (2) shall not prevent the Authority from disclosing any information or the contents of any document —

- (a) to any member, officer or employee of the Authority or any agent, consultant, committee or panel acting for or under the direction of the Authority;
- (b) to the Minister or any agent, consultant, committee or panel acting for or under the direction of the Minister;
- (c) to an Appeal Panel;
- (d) when required to do so by any court or under this Act or any other written law; or
- (e) for the purposes of any criminal proceedings.”.

#### **Amendment of section 6**

5. Section 6 of the Gas Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Subject to subsections (2) and (2A), no person shall —

- (a) convey gas —
  - (i) through a gas pipeline or gas pipeline network to any premises; or
  - (ii) to a gas pipeline or gas pipeline network owned by, or under the management or control of, a gas transporter;
- (b) convey gas for or on behalf of a gas transporter (other than as an employee of the gas transporter);
- (c) ship gas;
- (d) retail gas;
- (e) manage or operate any onshore receiving facility, whether —
  - (i) for himself; or

- (ii) as principal, or for or on behalf of any other person (other than as an employee);
  - (f) manage or operate any LNG terminal;
  - (g) produce town gas;
  - (h) import natural gas or liquefied natural gas;
  - (i) carry on such other activity relating to gas as the Minister may, by order published in the *Gazette*, specify,

unless he is authorised to do so by a gas licence or is exempted under section 8.”;
- (b) by inserting, immediately after subsection (2), the following subsection:
 

“(2A) Where an onshore receiving facility is to be managed or operated by a person for or on behalf of a principal (other than as an employee) —

  - (a) if the principal is incorporated or has a place of business in Singapore —
    - (i) the principal shall, for the purpose of subsection (1), obtain a licence under section 7 to manage or operate the facility as principal; and
    - (ii) the person managing or operating the facility for or on behalf of the principal may, without a licence, do so; or
  - (b) if the principal is not incorporated or does not have a place of business in Singapore —
    - (i) the principal shall appoint another person who is incorporated or has a place of business in Singapore to manage or operate the facility for or on his behalf (other than as an employee);
    - (ii) the person so appointed shall obtain a licence under section 7 to manage or operate the facility for or on behalf of the principal; and
    - (iii) the principal may, without a licence, manage or operate facility under section 7 as a principal.”;
- (c) by deleting the words “subsection (1)(c)” in subsection (3) and substituting the words “subsection (1)(i)”;
- (d) by deleting “\$500,000” in subsection (4) and substituting the words “\$1 million and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.”.

## Amendment of section 7

### 6. Section 7 of the Gas Act is amended —

- (a) by inserting, immediately after paragraph (c) of subsection (2), the following paragraph:

“(ca) in the case of a gas importer’s licence, in relation to that person, the quantities of natural gas or liquefied natural gas available, or which are anticipated to be available, to that person for import;”;

- (b) by deleting subsection (3) and substituting the following subsection:

“(3) The Authority may, with the approval of the Minister, grant or extend —

- (a) for all or any of the purposes referred to in section 6(1)(a), a gas transporter’s licence;
- (b) for the purpose referred to in section 6(1)(b), a gas transport agent’s licence;
- (c) for the purpose referred to in section 6(1)(c), a gas shipper’s licence;
- (d) for the purpose referred to in section 6(1)(d), a gas retailer’s licence;
- (e) for all or any of the purposes referred to in section 6(1)(e), an onshore receiving facility operator’s licence;
- (f) for all or any of the purposes referred to in section 6(1)(f), an LNG terminal operator’s licence;
- (g) for the purpose referred to in section 6(1)(g), a town gas producer’s licence;
- (h) for all or any of the purposes referred to in section 6(1)(h), a gas importer’s licence; and
- (i) for the purpose referred to in paragraph (i) of section 6(1), such licence as may be specified in any order made under that paragraph.”; and

- (c) by deleting subsections (5) and (6) and substituting the following subsections:

“(5) A gas licence shall not be granted to any person, if the grant of the licence may, in the opinion of the Authority, give rise to a conflict of interest in the discharge of any duty imposed on the person under this Act, the Electricity Act (Cap. 89A) or any licence granted to him under this section.

(6) A gas transporter’s licence shall not be granted to a gas retailer, gas shipper or town gas producer.

(6A) A gas retailer's licence shall not be granted to a gas transporter or gas transport agent.

(6B) A gas transport agent's licence shall not be granted to a gas retailer, gas shipper or town gas producer.

(6C) A gas shipper's licence shall not be granted to a gas transporter or gas transport agent.

(6D) A town gas producer's licence shall not be granted to a gas transporter or gas transport agent.

(6E) A gas transporter's licence shall not be granted to a person who is the holder of a licence under section 9(1)(a), (c), (d) or (f) of the Electricity Act (Cap. 89A)."

### **Amendment of section 9**

7. Section 9 of the Gas Act is amended —

- (a) by deleting the word “and” at the end of subsection (2)(k);
- (b) by deleting the full-stop at the end of paragraph (l) of subsection (2) and substituting the words “; and”, and by inserting immediately thereafter the following paragraphs:
  - “(m) requiring the gas licensee to provide a performance bond, guarantee or any other form of security on such terms and conditions as the Authority may determine; and
  - (n) where the gas licensee is not incorporated or does not have a place of business in Singapore, requiring the gas licensee to appoint, and notify the Authority of, a person who has a residential address or a place of business in Singapore to accept service on behalf of the gas licensee of any notice, order or document required or authorised by this Act to be given or served on the gas licensee.”;
- (c) by deleting the words “of the gas transporter” in subsection (3)(a)(i), and substituting the words “owned by, or under the management or control of, the gas transporter”;
- (d) by deleting the words “the gas transporter's gas pipeline or gas pipeline network” in subsection (3)(g) and substituting the words “a gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter”;
- (e) by deleting the words “gas transporter's gas pipeline or gas pipeline network” in subsection 4(a) and substituting the words “gas pipeline or gas pipeline network owned by, or under the management or control of, a gas transporter”; and
- (f) by inserting, immediately after subsection (4), the following subsections:

“(5) Without prejudice to the generality of subsection (1), a gas importer’s licence may include a condition controlling the quantities of natural gas or liquefied natural gas to be imported.

(6) Without prejudice to the generality of subsection (1), an onshore receiving facility operator’s licence may include conditions —

- (a) requiring the onshore receiving facility operator to —
  - (i) have in place procedures for compliance by the operator in the event of a public emergency; and
  - (ii) have emergency response capabilities; and
- (b) requiring the onshore receiving facility operator to appoint, at such intervals and on such terms as the Authority may direct, an independent technical auditor for the purposes specified in any such condition.

(7) Without prejudice to the generality of subsection (1), a LNG terminal operator’s licence may include conditions —

- (a) pertaining to the type, specifications and use of the LNG terminal;
- (b) requiring the LNG terminal operator to —
  - (i) have in place procedures for compliance by the operator in the event of a public emergency; and
  - (ii) have emergency response capabilities;
- (c) pertaining to the quantities of natural gas or liquefied natural gas which may be received, stored or processed at the LNG terminal;
- (d) regulating the terms and conditions of any service provided at the LNG terminal; and
- (e) requiring the LNG terminal licensee to appoint, at such intervals and on such terms as the Authority may direct, an independent technical auditor for the purposes specified in any such condition.”.

### **Amendment of section 11**

**8.** Section 11 of the Gas Act is amended —

- (a) by inserting, immediately after the words “unless he” in subsection (1), the words “is registered as a professional engineer and has a valid practising certificate under the Professional Engineers Act (Cap. 253), or”; and
- (b) by deleting subsection (3) and substituting the following paragraph:

“(3) This section shall not apply to a gas transporter, a gas transport agent or any of their employees.”.

### **Amendment of section 19**

9. Section 19 of the Gas Act is amended —

- (a) by inserting, immediately after the words “any direction”, the words “(including a direction under paragraph (a))”; and
- (b) by deleting the words “the Authority may by notice in writing to the gas licensee —” and substituting the words “the Authority may by notice in writing to the gas licensee do one or more of the following:”.

### **Repeal of section 20**

10. Section 20 of the Gas Act is repealed.

### **Amendment of section 21**

11. Section 21(2)(a) of the Gas Act is amended by deleting the words “and operated by him” and substituting the words “by, or under the management or control of, the gas transporter”.

### **Repeal and re-enactment of section 22**

12. Section 22 the Gas Act is repealed and the following section substituted therefor:

#### **“Duty to connect**

22.—(1) Subject to the provisions of this Act, a gas transporter shall, on the request of the owner or occupier of any premises, provide and install a gas service isolation valve, provide and lay a gas service pipe from the relevant gas main to the gas service isolation valve and connect such premises to the relevant gas main.

(2) Where any connection is made under subsection (1), the costs of providing and installing the gas service isolation valve, providing and laying the gas service pipe and making the connection, shall only be recovered by the gas transporter from the owner or occupier, as the case may be, to the extent they have not been previously recovered from any other person.

(3) Where any premises are connected to a relevant gas mains under this Act, any written law which has been repealed or any arrangement entered into by the owner or occupier of the premises prior to the appointed day, the gas transporter shall maintain the connection until it is no longer required by the owner or occupier of the premises.

(4) Nothing in subsection (1) or (3) shall require the gas transporter to connect, or maintain a connection of, a relevant gas main to any premises, if —

- (a) the gas transporter is unable to do so by circumstances beyond its control; or
- (b) there exist circumstances which by reason of the gas transporter doing so would involve a danger to the public.

(5) If the connection, or the maintenance of the connection, of any premises to a relevant gas main under this section —

- (a) will result in a new or an increased supply of gas to the premises; and
- (b) the new or increased supply of gas cannot be made without the laying of a new, or the enlargement of an existing, gas main or the undertaking of other works related to the conveyance of gas,

the gas transporter may refuse to make or maintain the connection until such time as the owner or occupier referred to in subsection (1) or (3) enters into an agreement with the gas transporter for the payment of a reasonable amount to the gas transporter having regard to —

- (i) the costs to be incurred by the gas transporter in laying or enlarging the relevant gas main or undertaking other works related to the conveyance of gas; and
- (ii) the extent to which such costs can be recovered from other persons.

(6) The owner or occupier of any premises shall grant the gas transporter rights of access for laying, installing, maintaining, repairing, altering or removing any gas service isolation valve or gas service pipe.”.

### **Amendment of section 25**

**13.** Section 25 of the Gas Act is amended —

- (a) by deleting the word “shippers” in subsections (1) and (3) and substituting in each case the words “gas shippers”; and
- (b) by deleting the words “the gas transporter’s gas pipeline or gas pipeline network” in subsections (1) and (3) and substituting in each case the words “a gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter”.

### **Amendment of section 26**

**14.** Section 26 of the Gas Act is amended —

- (a) by deleting the words “the gas transporter’s gas pipeline, gas pipeline network, or gas plant” in subsection (1) and substituting the words “a gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, the gas transporter”;
- (b) by deleting the word “gas transporter’s” in subsection (3);

- (c) by deleting the words “gas transporter’s gas pipeline or gas pipeline network, or gas plant or any internal pipe” in subsection (4) and substituting the words “gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, a gas transporter”;
- (d) by deleting the words “gas transporter’s gas pipeline or gas pipeline network, or gas plant” in subsection (6) and substituting the words “gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, a gas transporter”;
- (e) by deleting the words “or gas pipeline network, pipe or gas plant” in subsection (7) and substituting the words “, gas pipeline network or gas plant”; and
- (f) by deleting the words “gas transporter’s gas pipeline network or gas plant” in subsection (8) and substituting the words “gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, a gas transporter”.

#### **Amendment of section 27**

##### **15. Section 27 of the Gas Act is amended —**

- (a) by deleting the words “Subject to subsection (10), upon” in subsection (9) and substituting the word “Upon”; and
- (b) by deleting subsection (10) and substituting the following subsection:
  - “(10) The decision of the Authority under subsection (9) shall be final.”.

#### **Amendment of section 29**

##### **16. Section 29 of the Gas Act is amended —**

- (a) by deleting the words “any gas service pipe” in subsection (1) and substituting the words “any part of a gas service pipe from a gas main to and including a gas service isolation valve”; and
- (b) by deleting subsections (3) and (4) and substituting the following subsections:
  - “(3) The Authority may, from time to time, prescribe that any person or class of persons shall be responsible for the maintenance, repair or renewal of any part of a gas installation or any part of a gas service pipe linking a gas service isolation valve to the gas installation.
  - (4) The gas transporter shall —
    - (a) establish and implement a programme for the carrying out of a regular and periodic inspection, by the gas transporter or any other person, of any part of a gas installation or any

part of a gas service pipe linking a gas service isolation valve to the gas installation; and

- (b) notify the person responsible for the maintenance, repair or renewal of any part of the gas installation or any part of the gas service pipe linking the gas service isolation valve to the gas installation, if any such work of maintenance, repair or renewal is necessary following such inspection, and such work shall be carried out at the expense of that person.”.

### **Amendment of section 31**

17. Section 31(1) of the Gas Act is amended by deleting the words “gas transmission pipeline, gas main or gas service pipe belonging to” and substituting the words “gas pipeline owned by, or under the management or control of,”.

### **Amendment of section 32**

18. Section 32 of the Gas Act is repealed and the following sections substituted therefor:

#### **“Carrying out of earthworks within vicinity of gas pipe**

32.—(1) Subject to this section, no person other than a gas transporter shall commence or carry out, or cause or permit the commencement or carrying out of, any earthworks within the vicinity of any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, by the gas transporter unless the person —

- (a) has given to the gas transporter not less than 7 days notice in writing of the date on which it is proposed to commence the earthworks;
- (b) has obtained from the gas transporter the necessary information on the location of the gas plant or gas pipe; and
- (c) has consulted the gas transporter on the steps to be taken to prevent the gas plant or gas pipe from being damaged while the earthworks are being carried out.

(2) The Authority may, if it thinks fit, modify the period for which a notice under subsection (1)(a) is to be given to a gas transporter.

(3) It shall be the duty of the person who carries out any earthworks referred to in subsection (1) —

- (a) to comply with all reasonable requirements of the gas transporter for the prevention of damage to the gas plant or gas pipe;

- (b) to ensure that reasonable precautions are taken when carrying out such earthworks to prevent any damage to the gas plant or gas pipe; and
  - (c) to allow the gas transporter reasonable access to the work site for the purpose of inspecting or taking any necessary measures to protect the gas plant or gas pipe.
- (4) It shall be the duty of the gas transporter to whom a notice under subsection (1)(a) has been given —
  - (a) to promptly inform the person who has given the notice of the location of the gas plant or gas pipe and to provide him with any other information as may be necessary to enable him to ascertain the exact location of the gas plant or gas pipe;
  - (b) to advise the person on the precautions to be taken to prevent damage to the gas plant or gas pipe; and
  - (c) to take all such measures at the work site as may be reasonable and necessary for the protection of the gas pipe and, in so doing, the gas transporter shall have regard to the potential risks and dangers that can arise from any damage to the gas plant or gas pipe.
- (5) Nothing in subsection (1) shall prohibit a person from commencing or carrying out any earthworks where he has reasonable cause to believe that it is necessary to do so in the interest of public or private safety.
- (6) The person referred to in subsection (5) shall, as soon as practicable but not more than 24 hours after the earthworks have been commenced or carried out, give to the gas transporter notice in writing stating the nature and extent of those earthworks.
- (7) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.
- (8) Subject to subsection (9), in any proceedings for an offence under subsection (7), it shall be a defence for the person charged to prove —
  - (a) that he took all reasonable steps to discharge his duty under subsection (1) or (3), as the case may be; or
  - (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (9) If, in any proceedings for an offence under subsection (7), the defence involves acting on information supplied by a gas transporter, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within 14 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then

in his possession identifying or assisting in the identification of the person who supplied him with the information.

**Damage to gas pipe, etc.**

**32A.**—(1) Any person who wilfully removes, destroys or damages any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, a gas transporter or hinders or prevents the gas plant or gas pipe from being used or operated in the manner in which it is intended to be used or operated shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) Notwithstanding subsection (1), any person who, in the course of carrying out any earthworks, damages or suffers to be damaged any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, a gas transporter shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million or to imprisonment for a term not exceeding 5 years or to both.

(3) Where an offence under subsection (2) is committed by any person acting as the agent or servant of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under that subsection in the same manner and to the same extent as if he had personally committed the offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part.

(4) In any proceedings for an offence under subsection (2), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) If in any proceedings for an offence under subsection (2), the defence involves acting on information supplied by a gas transporter, the person charged shall not, without leave of the court, be entitled to rely on that defence unless he has, within 14 clear days before the hearing, served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of the person who supplied him with the information.

(6) Any person may apprehend any other person if the other person within his view commits an offence under this section and shall, on such apprehension, hand over the person so apprehended to a police officer without unreasonable delay.”.

### **Amendment of section 33**

#### **19.** Section 33 of the Gas Act is amended —

- (a) by inserting, immediately after the words “a gas transporter” in subsection (1), the words “or an LNG terminal operator”;
- (b) by inserting, immediately after the words “that gas transporter” in subsection (1), the words “or LNG terminal operator”;
- (c) by deleting the words “shippers” in subsection (1)(b) and substituting the words “gas shippers, or of the LNG terminal operator, as the case may be”;
- (d) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:
  - “(a) the security or reliability —
    - (i) in the case of a gas transporter, of the conveyance of gas by the gas transporter to consumers’ premises; or
    - (ii) in the case of an LNG terminal operator, of the services provided by the LNG terminal operator;”;
- (e) by inserting, immediately after the words “gas transporter” in subsection (2)(b), (c) and (d), the words “or LNG terminal operator”; and
- (f) by inserting, immediately after the words “gas transporter’s” wherever they appear in subsection (2)(c), the words “or LNG terminal operator’s”.

### **Amendment of section 34**

#### **20.** Section 34 of the Gas Act is amended —

- (a) by inserting, immediately after the words “a gas transporter” in subsections (1), (5), (6)(a), (b) and (d) and (7), the words “or an LNG terminal operator”;
- (b) by inserting, immediately after the words “the gas transporter” in subsections (1)(a), (b) and (c) and (2)(a), the words “or LNG terminal operator”;
- (c) by deleting paragraph (c) of subsection (2) and substituting the following paragraph:
  - “(c) the Minister considers it in the interest of the security and reliability —
    - (i) in the case of a gas transporter, of the conveyance of gas by the gas transporter to the consumers’ premises; or

- (ii) in the case of an LNG terminal operator, of the services provided by the LNG terminal operator; or”; and
- (d) by inserting, immediately after the words “a gas transporter’s” in subsection (6)(c), the words “or an LNG terminal operator’s”.

### **Amendment of section 35**

21. Section 35 of the Gas Act is amended —

- (a) by inserting, immediately after the words “the gas transporter” in subsections (1) and (2) the words “or LNG terminal operator”; and
- (b) by inserting, immediately after the words “a gas transporter” in subsection (2), the words “or an LNG terminal operator”.

### **Amendment of section 38**

22. Section 38 of the Gas Act is amended —

- (a) by deleting the words “, the conditions of a gas licence or the performance of its contractual obligations” in subsection (4) and substituting the words “or the conditions of a gas licence”;
- (b) by deleting the word “and” at the end of subsection (4)(b);
- (c) by deleting the full-stop at the end of paragraph (c) of subsection (4) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(d) requiring the owner of the relevant facility to make such adjustments to charges imposed by the owner on existing users of the relevant facility, as the Authority considers appropriate.”;

- (d) by inserting, immediately after the word “offence” in subsection (8), the words “and shall be liable upon conviction to a fine not exceeding \$1 million, and in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.”;
- (e) by inserting, immediately after subsection (8), the following subsections:

“(8A) Any person who does any act which has or is likely to have the effect of obstructing, hindering or otherwise preventing any other person from complying with a direction of the Authority under this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding \$1 million, and in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(8B) No action, suit or other legal proceedings shall lie against —

- (a) any party to a contract for failing, neglecting or refusing to carry out any act required by the contract; or
- (b) any person for failing, neglecting or refusing to carry out any act under any written law,

where such failure, neglect or refusal is solely attributable to, or occasioned by, the compliance by that party or person with any direction of the Authority under this section.

(8C) Nothing in section (8A) shall affect the operation of the Frustrated Contracts Act (Cap. 115).”;

- (f) by deleting the the definition of “LNG facility” in subsection (9);
- (g) by deleting the words “of a gas transporter” in paragraph (b)(i) of the definition of “relevant facility” in subsection (9) and substituting the words “owned by, or under the management or control of, a gas transporter, or owned by”; and
- (h) by deleting the words “LNG facility” in paragraph (c) of the definition of “relevant facility” in subsection (9) and substituting the words “onshore receiving facility, LNG terminal”.

### **New section 38A**

**23.** The Gas Act is amended by inserting, immediately after section 38, the following section:

#### **“Arrangements by Authority for allocation of gas**

**38A.—**(1) Upon the application of any person who is unable to enter into an arrangement relating to the allocation of gas in any offshore gas pipeline, the Authority may give directions to —

- (a) the applicant; and
- (b) every person whose gas is being conveyed through the offshore gas pipeline,

requiring the persons referred to in paragraphs (a) and (b) to enter into such arrangement for the allocation of gas in the offshore gas pipeline, and to take such steps to ensure that the arrangement is given effect to, as the Authority thinks fit.

(2) Where the Authority has given directions for an arrangement for the allocation of gas in an offshore gas pipeline under subsection (1) as between the persons referred to in paragraphs (a) and (b) of that subsection —

- (a) any arrangement relating to the allocation of gas in that offshore gas pipeline in force immediately prior to the arrangement so specified by the Authority shall thereupon cease to apply; and

(b) the arrangement directed by the Authority shall cease to apply as between the persons referred to in paragraphs (a) and (b) of subsection (1) upon those persons thereafter entering into an arrangement as between themselves for the allocation of gas in the offshore gas pipeline.

(3) Any person who fails to comply with a direction of the Authority under this section shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding \$1 million, and in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(4) In this section, “offshore gas pipeline” means any gas pipeline in Singapore waters used for the conveyance of gas to any onshore receiving facility.”.

#### **Amendment of section 39**

24. Section 39 of the Gas Act is amended by inserting, immediately after the words “Where any” in subsection (1), the words “gas transmission pipeline,”.

#### **Amendment of section 44**

25. Section 44 of the Gas Act is amended —

- (a) by deleting the word “and” at the end of subsection (2)(a);
- (b) by deleting the full-stop at the end of paragraph (b) of subsection (2) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) the relevant gas shipper may discontinue the shipping of gas to his premises and any gas shipper may refuse to ship gas to his premises.”; and

- (c) by deleting subsection (3) and substituting the following subsection:

“(3) Any meter —

- (a) owned by, or under the management or control of, a gas transporter or owned by a relevant gas shipper; and
- (b) lent or hired to a consumer by the gas transporter or relevant gas shipper, as the case may be,

shall, at all times and without charge to that consumer, be kept by the gas transporter or relevant gas shipper, as the case may be, in proper order for correctly registering the quantity of gas supplied to that consumer.”.

### **Amendment of section 47**

**26.** Section 47(3) of the Gas Act is amended by inserting, immediately after the words “supply of gas to the premises of,” the words “or the gas shipper may discontinue the shipping of gas to the premises of,”.

### **Amendment of section 49**

**27.** Section 49(1) of the Gas Act is amended by inserting, immediately after the words “a gas retailer,” the words “or the shipping of gas to such premises was discontinued by a gas shipper,”.

### **Amendment of section 50**

**28.** Section 50 of the Gas Act is amended —

- (a) by deleting the words “gas service pipe” wherever they appear in subsections (1) and (4) and substituting in each case the words “gas pipeline”;
- (b) by deleting the word “and” at the end of subsection (1)(a);
- (c) by inserting, immediately after paragraph (a) of subsection (1), the following paragraph:
  - “(aa) in a case where gas is shipped to the premises by a relevant gas shipper whose name and address are known to him, to the gas shipper; and ”;
- (d) by deleting the words “in any other case,” in subsection (1)(b);
- (e) by inserting, immediately after the words “relevant gas retailer” in subsection (3), the words “, the relevant gas shipper”;
- (f) by inserting, immediately after the words “supplied” in subsection (4), the words “or shipped”; and
- (g) by deleting the words “gas service pipe” in the section heading and substituting the words “gas pipeline”.

### **Repeal and re-enactment of section 51**

**29.** Section 51 of the Gas Act is repealed and the following section substituted therefor: —

#### **“Proper use of gas**

**51.** If any consumer supplied with gas improperly uses or deals with the gas so as to interfere with the efficient conveyance, supply or shipping of gas (whether to that person or to any other person), his premises may be disconnected by a gas transporter, the supply of gas to his premises may be discontinued by the relevant gas retailer, or the shipping of gas to his premises may be discontinued by the relevant gas shipper.”

## **Amendment of section 52**

**30.** Section 52 of the Gas Act is amended —

- (a) by deleting the word “or” at the end of subsection (1)(a);
- (b) by deleting the full-stop at the end of paragraph (b) of subsection (1) and substituting the following word “; or”, and by inserting immediately thereafter the following paragraph;

“(c) the shipping of gas to a consumer’s premises has been discontinued by a gas shipper under this Act.”; and

- (c) by deleting subsection (2) and substituting the following subsection:

“(2) The gas transporter, gas retailer or gas shipper shall not be under any obligation to re-connect the consumer’s premises, restore the supply of gas to the consumer’s premises, or resume the shipping of gas to the consumer’s premises, as the case may be, until the consumer —

(a) is no longer the owner or occupier of the premises; or

(b) has —

(i) make good the default, or remedied the matter, in consequence of which the premises were disconnected or the supply or shipping of gas to such premises was discontinued; and

(ii) paid the reasonable expenses of disconnecting and re-connecting the premises, of discontinuing and restoring the supply of gas to the premises or of discontinuing and resuming the shipping of gas to the premises, as the case may be.”.

## **Amendment of section 54**

**31.** Section 54 of the Gas Act is amended —

- (a) by inserting, immediately after the words “relevant gas retailer” in subsection (2), the words “or relevant gas shipper”; and
- (b) by deleting the word “conveyed” in subsection (2)(b) and substituting the word “shipped”.

## **Repeal and re-enactment of section 55**

**32.** Section 55 of the Gas Act is repealed and the following section substituted therefor:

### **“Entry on discontinuance of supply**

**55.** —(1) This section applies where —

- (a) a gas transporter, gas retailer or gas shipper is authorised by this Act to disconnect any premises or discontinue the supply or shipping of gas to any premises;
- (b) a person occupying premises supplied with gas by a gas retailer ceases to require a supply of gas;
- (c) a person occupying premises to which gas is shipped by a gas shipper ceases to require a shipping of gas;
- (d) a person entering into occupation of any premises previously supplied with gas by a gas retailer does not take a supply of gas;  
or
- (e) a person entering into occupation of any premises to which a gas shipper has previously shipped gas does not require a shipping of gas.

(2) Subject to section 60, any person authorised by a gas transporter, gas retailer or gas shipper may, after 7 days' notice to the occupier of any premises, or to the owner of the premises if they are unoccupied, enter the premises for the purpose of—

- (a) disconnecting the premises or discontinuing the supply or shipping of gas to the premises; or
- (b) removing any meter or other gas fitting owned by the gas transporter or gas shipper.”.

### **Amendment of section 56**

**33.** Section 56 of the Gas Act is repealed and the following section substituted therefor:

#### **“Entry following discontinuance of supply**

**56.—**(1) This section applies where a consumer's premises have been disconnected by a gas transporter, a supply of gas to a consumer's premises has been discontinued by a gas retailer or a shipping of gas to a consumer's premises has been discontinued by a gas shipper, otherwise than in the exercise of a power conferred by section 53 or 65 or the regulations.

(2) Subject to section 60, any person authorised by the gas transporter, gas retailer or gas shipper may enter the premises for the purpose of ascertaining whether the premises have been re-connected, the supply of gas has been restored or the shipping of gas has been resumed, without the consent of the gas transporter, the gas retailer or the gas shipper, as the case may be.”.

### **Repeal of section 57**

**34.** Section 57 of the Gas Act is repealed.

### **Amendment of section 60**

**35.** Section 60 of the Gas Act is amended by deleting the words “or gas retailer” in subsections (1) and (2) and substituting in each case the words “, gas retailer or gas shipper”.

### **Amendment of section 61**

**36.** Section 61 of the Gas Act is amended —

- (a) by deleting the words “or gas retailer” in subsections (1) and (2) and substituting in each case the words “, gas retailer or gas shipper”;
- (b) by inserting, immediately after the words “gas retailer” in subsection (2)(b), the words “, gas shipper”; and
- (c) by deleting the words “or a gas retailer” in subsection (3) and substituting the words “, a gas retailer, a gas shipper”.

### **New Part VIA**

**37.** The Gas Act is amended by inserting, immediately after section 61, the following Part:

#### “PART VIA

#### GAS NETWORK CODE

#### **Interpretation of this Part**

**61A.** In this Part, unless the context otherwise requires —

“gas” means natural gas;

“designated gas transporter” means a gas transporter declared by the Authority, by notification in the *Gazette*, to be a designated gas transporter for the purposes of this Part;

“gas pipeline network” means any gas pipeline network which is used by the designated gas transporter for the conveyance of gas from any onshore receiving facility;

“relevant gas shipper” means a gas shipper who ships gas by means of a gas pipeline network.

#### **Gas Network Code**

**61B.—**(1) The Authority shall issue a Gas Network Code for the use and operation of any gas pipeline network, which shall include the following:

- (a) the governing of arrangements between the designated gas transporter and the relevant gas shippers for the purpose of enabling or ensuring that —
  - (i) no person is prevented from gaining access to the gas pipeline network; and

- (ii) there is no undue discrimination for or against any person's access to the gas pipeline network; (b) the governing of the activities of the designated gas transporter and the relevant gas shippers;
  - (c) the establishing and governing of the principles and methodologies relating to the operation of the gas pipeline network; and
  - (d) the establishing and governing of the charges payable by, and other liabilities to be discharged by, the designated gas transporter and the relevant gas shippers.
- (2) The designated gas transporter —
  - (a) may modify the Gas Network Code in such manner as provided in the Gas Network Code; and
  - (b) shall modify the Gas Network Code if directed to do so by the Authority.
- (3) Any modification to the Gas Network Code made under subsection (2) is subject to approval by the Authority, which approval shall be granted unless the Authority determines that the modification —
  - (a) being a modification made under subsection (2)(a) —
    - (i) unduly discriminates in favour of or against the designated gas transporter, any relevant gas shipper or any class of relevant gas shippers; or
    - (ii) prevents any person from gaining access to any gas pipeline network; or
  - (b) is inconsistent with any function or duty of the Authority under section 3(3).
- (4) The Gas Network Code issued or modified in accordance with this section shall be published by the designated gas transporter in such manner as will secure adequate publicity.
- (5) The designated gas transporter or any relevant gas shipper shall not do or omit to do any thing that has or is likely to have an adverse effect on or compromise —
  - (a) the safety or efficiency (including economic efficiency) of any gas pipeline network or any of its operations; or
  - (b) the security or reliability of the conveyance of gas by means of the gas pipeline network.
- (6) The Gas Network Code shall be deemed not to be subsidiary legislation.

### **Implementation of Gas Network Code**

**61C.**—(1) The designated gas transporter shall devise such tests or trials as are required for the implementation of a Gas Network Code.

(2) The designated gas transporter and every relevant gas shipper shall participate in any test or trial devised under subsection (1).

### **Gas Network Code has effect as contract**

**61D.**—(1) The Gas Network Code shall be deemed to be, and shall operate as, a binding contract between the designated gas transporter and each relevant gas shipper.

(2) The designated gas transporter and the relevant gas shipper shall be deemed to have agreed to observe and perform the provisions of the Gas Network Code as far as they are applicable to the designated gas transporter or the relevant gas shipper, as the case may be.

### **Limitation of actions under Gas Network Code**

**61E.**—(1) If the Gas Network Code —

(a) regulates the manner in which disputes under the Gas Network Code are to be resolved; and

(b) restricts recourse to the courts until such time as the dispute resolution process in the Gas Network Code has been exhausted,

recourse to the courts shall be limited in accordance with the Gas Network Code except in relation to matters of law and jurisdiction.

(2) Nothing in this section is to be read or construed as —

(a) sanctioning the absolute limitation of appeals to the courts except in relation to matters of facts; or

(b) limiting the right of any person to seek interim injunctive relief from the courts.

### **Directions in relation to Gas Network Code**

**61F.**—(1) The Authority may, on an application by any relevant gas shipper, direct any relevant direct access customer to do or not to do such things, including to pay to the relevant gas shipper such charges under the Gas Network Code, as may be determined by the Authority —

(a) in relation to any obligation or liability of the relevant gas shipper under the Gas Network Code; and

(b) for the purpose of ensuring the security or reliability of the conveyance of gas by the designated gas transporter.

(2) An application under subsection (1) shall be made in such form and manner as the Authority may determine and shall be accompanied by such information and documents as the Authority may require.

(3) Any person who fails to comply with any direction given under subsection (1) shall be guilty of an offence.

(4) In this section, “relevant direct access customer” means any direct access customer to whose premises a relevant gas shipper ships gas.”.

### **Repeal and re-enactment of sections 62 and 63**

**38.** Sections 62 and 63 of the Gas Act are repealed and the following sections substituted therefor:

#### **“Codes of practice**

**62.—**(1) The Authority may issue one or more codes of practice for the regulation of activities and conduct in the gas industry.

(2) The Authority may at any time modify any code of practice issued under subsection (1) in such manner as may be specified in that code of practice.

(3) For the purposes of subsections (1) or (2), the Authority may require any gas licensee to prepare such code of practice or such modification to any code of practice as the Authority determines.

(4) Any code of practice issued or modified in accordance with this section shall be published by the Authority in such manner as will secure adequate publicity.

(5) If any provision in any code of practice issued by the Authority is inconsistent with any regulations made under this Act, such provision shall, to the extent of the inconsistency, either have effect subject to such regulations or, where appropriate, having regard to such regulations, shall not have effect.

(6) The Authority shall specify the codes of practice which are applicable to a gas licensee or a class of gas licensees and each gas licensee shall, subject to subsection (7), comply with such codes of practice as are applicable to it.

(7) The Authority may exempt, either generally or subject to such conditions as the Authority may specify, any gas licensee or class of gas licensees from any provision in any code of practice which is applicable to that gas licensee or class of gas licensees.

(8) Any code of practice issued by the Authority under this section shall be deemed not to be subsidiary legislation.

(9) In this section, a reference to a code of practice shall include a reference to a standard of performance.

### **Directions by Authority**

**63.**—(1) The Authority may give directions to a gas licensee or any other person for or with respect to any code of practice, standard of performance or other procedures —

- (a) to ensure the security or reliability of the conveyance of gas to consumers' premises;
- (b) in the interests of public safety; or
- (c) as may be necessary to enable the Authority to carry out its functions and duties under section 3.

(2) Any person who fails to comply with any direction given under subsection (1) shall be guilty of an offence.”.

### **New Part VIIA**

**39.** The Gas Act is amended by inserting, immediately after section 63, the following Part:

#### **“PART VIIA**

#### **CONTROL OF GAS LICENSEES AND ENTITIES WITH INTEREST IN GAS PIPELINE NETWORK**

### **Interpretation of this Part**

**63A.**—(1) In this Part, unless the context otherwise requires —

“12% controller”, in relation to a designated gas licensee, designated entity or designated business trust, means a person, not being a 30% controller, who, alone or together with his associates —

- (a) holds 12% or more of the total equity interests in; or
- (b) is in a position to control 12% or more of the voting power in, the designated gas licensee, designated entity or designated business trust;

“30% controller”, in relation to a designated gas licensee, designated entity or designated business trust, means a person who, alone or together with his associates —

- (a) holds 30% or more of the total equity interests in; or
- (b) is in a position to control 30% or more of the voting power in, the designated gas licensee, designated entity or designated business trust;

“arrangement” includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

“business trust” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

“chief executive officer”, in relation to a designated gas licensee, means any person, by whatever name described, who is —

(a) in the direct employment of, or acting for or by arrangement with, the designated gas licensee; and

(b) principally responsible for the management and conduct of any type of business of the designated gas licensee,

and includes any person for the time being performing all or any of the functions or duties of a chief executive officer;

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“corporation” has the same meaning as in section 4(1) of the Companies Act;

“designated business trust” means a business trust that is established wholly or partly in respect of a gas pipeline network (or any part thereof) and which has been declared by the Authority, by notification in the *Gazette*, to be a designated business trust for the purposes of this Part;

“designated gas licensee” means a gas transporter or a gas transport agent;

“designated entity” means an entity, not being a designated gas licensee, which owns a gas pipeline network (or any part thereof) and which has been declared by the Authority, by notification in the *Gazette*, to be a designated entity for the purposes of this Part;

“equity interest” means —

(a) in relation to a body corporate, a voting share in that body corporate;

(b) in relation to an entity other than a body corporate, any right or interest, whether legal or equitable, in that entity, by whatever name called, which gives the holder of that right or interest voting power in that entity; and

(c) in relation to a business trust, a unit in that business trust;

“entity” includes a corporation and a limited liability partnership;

“indirect controller”, in relation to a designated gas licensee, designated entity or designated business trust, means any person, whether acting alone or together with any other person, and whether with or without holding equity interest or controlling voting power in the designated gas licensee, designated entity or designated business trust —

- (a) in accordance with whose directions, instructions or wishes the directors or other officers of the licensee, entity or trustee-manager of the business trust, as the case may be, are accustomed or under an obligation, whether formal or informal, to act; or
- (b) who is in a position to determine the policy of the licensee, entity or trustee-manager of the business trust,

but does not include —

- (i) in the case of the licensee, any person who is a director or other officer of the licensee whose appointment has been approved by the Authority under section 63H; or
- (ii) any person in accordance with whose directions, instructions or wishes the directors or other officers of the licensee, entity or trustee-manager of the business trust, as the case may be, are, accustomed to act by reason only that they act on advice given by him in his professional capacity;

“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act 2005 (Act 5 of 2005);

“related corporation”, in relation to a corporation, means a corporation that is deemed to be related to the first-mentioned corporation under section 6 of the Companies Act (Cap. 50);

“share” has the same meaning as in section 4(1) of the Companies Act;

“substantial equity interest holder” means —

- (a) in relation to a company, a substantial shareholder of that company;
- (b) in relation to an entity other than a company, a person who has an interest or interests in equity interests in that entity representing 5% or more of the total voting rights of all the persons who hold equity interests in that entity; and
- (c) in relation to a business trust, a person who has an interest or interests in units in that business trust representing 5% or more of the total voting rights of all the unitholders of the business trust;

“substantial shareholder” has the same meaning as in section 81 of the Companies Act (Cap. 50);

“treasury share” has the same meaning as in section 4(1) of the Companies Act;

“trustee-manager” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

“unit” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

“unitholder” has the same meaning as in section 2 of the Business Trusts Act;

“voting share” has the same meaning as in section 4(1) of the Companies Act (Cap. 50) but does not include a treasury share.

(2) In this Part, a person holds an equity interest if —

- (a) he is deemed to have an interest in that equity interest in accordance with subsection (3); or
- (b) he otherwise has a legal or equitable interest in that equity except for such interest as is to be disregarded in accordance with subsection (3).

(3) In determining whether —

- (a) a person is deemed to have an interest in an equity interest; or
- (b) any interest is to be disregarded,

section 7(6) to (10) of the Companies Act shall apply as if the reference to a share in those provisions of that section is a reference to an equity interest.

(4) A reference in this Part to the control of a percentage of the voting power in a designated gas licensee, designated entity or designated business trust is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the designated gas licensee, designated entity or designated business trust.

(5) In this Part, a person, *A*, is an associate of another person, *B*, if —

- (a) *A* is the spouse, or a parent, step-parent or remoter lineal ancestor, or a son, step-son, daughter, step-daughter or remoter issue, or a brother or sister, of *B*;
- (b) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*, or where *B* is a corporation, of the directors of *B*;
- (c) *B* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A*, or where *A* is a corporation, of the directors of *A*;
- (d) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*, or where *B* is a corporation, of the directors of *B*;

- (e) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;
- (f) *A* is a related corporation of *B*;
- (g) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in paragraphs (b) to (f), is in a position to control not less than 20% of the voting power in *A*;
- (h) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in paragraphs (b) to (f), is in a position to control not less than 20% of the voting power in *B*; or
- (i) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of equity interests or other interests in, or with respect to the exercise of their voting power in relation to, a designated gas licensee, designated entity or designated business trust.

**Control of acquisition of equity interest in designated gas licensee, etc.**

**63B.**—(1) Any person who, on or after the appointed day, becomes a substantial equity interest holder of a designated gas licensee, designated entity or designated business trust shall give notice in writing to the Authority of that fact within 5 days after becoming a substantial equity interest holder of the licensee, entity or business trust.

(2) No person shall, on or after the appointed day, become a 12% controller, a 30% controller or an indirect controller of a designated gas licensee, designated entity or designated business trust without obtaining the prior written approval of the Authority.

(3) No person shall, on or after the appointed day, acquire as a going concern —

- (a) the business of a designated gas licensee conducted pursuant to its licence;
- (b) the business of a designated entity relating to its gas pipeline network or any part thereof; or
- (c) the business of a designated business trust relating to a gas pipeline network or any part thereof in respect of which, wholly or in part, the business trust is established,

unless the person, and the licensee, the entity or the trustee-manager of the business trust, as the case may be, obtain the prior written approval of the Authority.

(4) A notice under subsection (1) shall be given and an application for the Authority's approval under subsection (2) or (3) shall be made in such form and manner as may be specified by the Authority.

(5) An application for the Authority's approval under subsection (3) shall be made jointly by the person, and the designated gas licensee, the designated entity or the trustee-manager of the designated business trust, as the case may be.

### **Approval of applications under section 63B**

**63C.**— (1) The Authority may approve an application of a person for the Authority's approval under section 63B(2) if the Authority is satisfied that —

- (a) the person is a fit and proper person;
- (b) having regard to the person's likely influence —
  - (i) the designated gas licensee or designated entity, as the case may be, will continue to conduct its business prudently and comply with the provisions of this Act; or
  - (ii) the trustee-manager of the designated business trust will continue to conduct the business of the business trust prudently and comply with provisions of this Act; and
- (c) it is in the public interest to do so.

(2) The Authority may approve an application for the Authority's approval under section 63B(3) if the Authority is satisfied that —

- (a) the person acquiring the business is a fit and proper person;
- (b) the acquisition will not affect the security and reliability of the conveyance of gas to consumers' premises; and
- (c) it is in the public interest to do so.

(3) Any approval granted by the Authority under this section shall be without prejudice to the operation of Part IX.

(4) Any approval by the Authority under this section may be granted subject to such conditions as the Authority may determine, including but not limited to any condition —

- (a) restricting the disposal or further acquisition of equity interest or voting power in the designated gas licensee, the designated entity or the designated business trust; or
- (b) restricting the exercise of voting power in the designated gas licensee, the designated entity or the designated business trust.

(5) The Authority may at any time add to, vary or revoke any condition imposed under this section.

(6) Any condition imposed under this section shall have effect notwithstanding the provisions of any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the designated gas licensee, the designated entity or the designated business trust.

### **Power to exempt**

**63D.** The Authority may, by order published in the *Gazette*, exempt —

- (a) any person or class of persons; or
- (b) any class or description of equity interest,

from section 63B(1), (2) or (3), subject to such conditions as may be specified in the order.

### **Power to issue directions**

**63E.—**(1) The Authority may issue any direction under subsection (2) or (3), as the case may be, to a person if the Authority is satisfied that —

- (a) the person has contravened section 63B(2) or (3);
- (b) in the case of a person who has obtained the Authority's approval under section 63B(2) or who has been exempted from section 63B(2) under section 63D —
  - (i) the person is or ceases to be a fit and proper person;
  - (ii) having regard to the person's likely influence —
    - (A) the designated gas licensee or designated entity, as the case may be, is not, or is no longer, likely to conduct its business prudently or to comply with the provisions of this Act; or
    - (B) the trustee-manager of the designated business trust is not, or is no longer likely, to conduct business of the business trust prudently or to comply with the provisions of this Act; or
  - (iii) it is not, or is no longer, in the public interest to allow the person to continue to be a 12% controller, a 30% controller or an indirect controller, as the case may be;
- (c) in the case of a person who has obtained the Authority's approval under section 63B(3) or who has been exempted from section 63B(3) under section 63D —
  - (i) the person is not or ceases to be a fit and proper person; or
  - (ii) it is not, or is no longer, in the public interest to allow the person to continue to own or manage the business that the person has acquired; or

- (d) the person has furnished false or misleading information or documents to the Authority in connection with the person's application for the Authority's approval under section 63B(2) or (3);
- (e) the Authority would not have approved the person's application for its approval under section 63B(2) or (3) had it been aware, at that time, of circumstances relevant to the application; or
- (f) any condition imposed on the person under section 63C or 63D has not been complied with.

(2) Where the person is a 12% controller, a 30% controller or an indirect controller of a designated gas licensee, designated entity or designated business trust, the Authority may, by notice in writing —

- (a) direct the person to take such steps as are necessary, within such period as may be specified by the Authority, to ensure that he ceases to be a 12% controller, a 30% controller or an indirect controller of the licensee, entity or business trust;
- (b) direct the person or any of his associates to transfer or dispose of all or any of the equity interest in the licensee, entity or business trust held by the person or his associate (referred to in this section and section 63F as the specified equity interest) within such time and subject to such conditions as the Authority considers appropriate;
- (c) restrict the transfer or disposal of the specified equity interest; or
- (d) make such other direction as the Authority considers appropriate.

(3) Where the person has acquired as a going concern a business referred to in section 63B(3), the Authority may, by notice in writing —

- (a) direct the person to transfer or dispose of all or any part of the business within such time and subject to such conditions as the Authority considers appropriate; or
- (b) make such other direction as the Authority considers appropriate.

(4) Before issuing any direction to any person under subsection (2) or (3), the Authority shall, unless the Authority decides that it is not practicable or desirable to do so, give to that person notice in writing of the Authority's intention to issue the direction and specifying a date by which the person may make written representations with regard to the proposed direction.

(5) Upon receipt of any written representation referred to in subsection (4), the Authority shall consider it for the purpose of determining whether to issue the direction.

(6) Any person to whom a direction is issued under this section shall comply with the direction.

(7) The Authority may vary or revoke any direction issued under this section.

### **Effect of directions**

**63F.**—(1) Any direction issued to any person under section 63E shall take effect notwithstanding any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the designated gas licensee, designated entity or designated business trust, as the case may be.

(2) Where any direction is issued under section 63E(2)(b) or (c), notwithstanding any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution, of the designated gas licensee, designated entity or designated business trust, as the case may be —

- (a) no voting rights shall be exercisable in respect of the specified equity interest unless the Authority expressly permits such rights to be exercised;
- (b) no equity interest in the licensee, entity or business trust shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified equity interest unless the Authority expressly permits such issue or offer; and
- (c) except in a winding up of the licensee, entity or business trust, no payment shall be made by the licensee, entity or trustee-manager of the business trust of any amount (whether by way of dividends or otherwise) in respect of the specified equity interest unless the Authority expressly authorises such payment,

until the transfer or disposal is effected in accordance with the direction or until the direction is revoked, as the case may be.

### **Offences, penalties and defences**

**63G.**—(1) Any person who contravenes section 63B(1), (2) or (3) or 63E(6) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(2) Where a person is charged with an offence in respect of a contravention of section 63B(1), it shall be a defence for the person to prove that —

- (a) he was not aware that he had contravened section 63B(1); and
- (b) he has, within 5 days after becoming aware that he had contravened section 63B(1), complied with section 63B(1).

(3) Where a person is charged with an offence in respect of a contravention of section 63B(2), it shall be a defence for the person to prove that —

- (a) he was not aware that he had contravened section 63B(2); and
- (b) he has, within 14 days of becoming aware that he had contravened section 63B(2), notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such actions in relation to his holding of equity interest or control of the voting power in the designated gas licensee, designated entity or designated business trust as the Authority may direct.

(4) Where a person is charged with an offence in respect of a contravention of section 63B(2), it shall also be a defence for the person to prove that, even though he was aware of the contravention —

- (a) the contravention occurred as a result of an increase in the holding of equity interest or in the voting power controlled by any of his associates in the designated gas licensee, designated entity or designated business trust;
- (b) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect to the acquisition, holding or disposal of equity interest or other interests in, or under which they act together in exercising their voting power in relation to, the designated gas licensee, designated entity or designated business trust; and
- (c) he has, within 14 days of the date of the contravention, notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such actions in relation to his holding of equity interest or control of the voting power in the designated gas licensee, designated entity or designated business trust as the Authority may direct.

(5) Except as provided in subsections (2), (3) and (4), it shall not be a defence for a person charged with an offence in respect of a contravention of section 63B(1) or (2) to prove that he did not intend to or did not knowingly contravene section 63B(1) or (2).

### **Appointment of chief executive officer, director, etc., of designated gas licensee**

**63H.**—(1) No designated gas licensee shall appoint a person as its chief executive officer, its director or the chairman of its board of directors unless it has obtained the prior written approval of the Authority.

(2) Where a person has been appointed by a designated gas licensee as its chief executive officer, its director or the chairman of its board of directors in contravention of subsection (1), the Authority may issue a direction to the licensee to remove that person as its chief executive officer, its director or the chairman of its board of directors, as the case may be.

(3) This section shall have effect notwithstanding any other written law or anything contained in the memorandum or articles of association, or other constitution, of the designated gas licensee.”.

### **Amendment of section 65**

**40.** Section 65 of the Gas Act is amended —

- (a) by deleting the words “any gas service pipe or gas main of” in subsection (1) and substituting the words “any gas pipeline owned by, or under the management or control of,”;
- (b) by deleting the words “after being informed of the escape,” in subsection (1)(a);
- (c) by deleting the words “after being so informed,” in subsection (2)(a);
- (d) by inserting, immediately after the words “exceeding \$100,000” in subsection (2), the words “and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction”;
- (e) by deleting the words “or gas retailer” and substituting the words “, gas retailer or gas shipper”, and by inserting, immediately after the words “(the informant)”, the words “, or otherwise knows,” in subsection (5); and
- (f) by deleting the words “or gas retailer” in subsection (6) and substituting the words “, gas retailer or gas shipper”.

### **Amendment of section 67**

**41.** Section 67 of the Gas Act is amended by deleting the words “or gas service pipes” in subsection (1)(b).

### **Amendment of section 78**

**42.** Section 78 of the Gas Act is amended by inserting, immediately after subsection (5), the following subsection:

“(5A) An appeal under subsection (5) shall not suspend the effect of a decision or direction to which the appeal relates unless the appeal is against the imposition or the amount of a financial penalty.”.

#### **Amendment of section 84**

**43.** Section 84 of the Gas Act is amended —

- (a) by inserting, immediately after the words “An Appeal Panel” in subsection (1), the words “established by the Minister under section 83(3) or 93(5)”; and
- (b) by inserting, immediately after the words “section 83(3) in subsection (2), the words “or 93(5)”.

#### **Amendment of section 85**

**44.** Section 85 of the Gas Act is amended —

- (a) by deleting the word “and” at the end of subsection (3)(a);
- (b) by deleting the full-stop at the end of paragraph (b) of subsection (3) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) the award of costs and expenses of and incidental to any proceedings before the Appeal Panel.”; and

- (c) by inserting, immediately after subsection (9), the following subsection:

“(9A) An Appeal Panel established by the Minister to consider and determine an appeal under section 93(5) may determine the appeal by —

- (a) confirming, varying or reversing any decision or direction of the Authority; or
- (b) directing the Authority to reconsider its decision or direction,

and the decision of the Appeal Panel shall be final.”.

#### **Repeal and re-enactment of section 93**

**45.** Section 93 of the Gas Act is repealed and the following section substituted therefor:

##### **“Appeal to Minister**

**93.—**(1) A person aggrieved by —

- (a) any decision of the Authority in the exercise of any discretion vested in it by or under this Act, except for section 27(9) or (12); or
- (b) any direction issued by the Authority under this Act,

may, except where provision has been made under this Act for an appeal to be made to an Appeal Panel, appeal to the Minister, together with adequate details of the grounds for the appeal.

(2) Unless otherwise provided in this Act, an appeal under subsection (1) shall be lodged within 14 days of the receipt of the decision or direction.

(3) Any person who has lodged an appeal under subsection (1) shall provide such information and documents as may be required by the Minister in such manner and within such period as may be specified by the Minister.

(4) Unless —

(a) otherwise provided in this Act; or

(b) the appeal is against the imposition or the amount of a financial penalty,

an appeal under subsection (1) shall not suspend the effect of a decision or direction to which the appeal relates.

(5) Where the Minister considers that an appeal lodged under subsection (1) involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge, he may, subject to section 84(1), establish by direction an Appeal Panel comprising one or more of such persons to consider and determine the appeal.

(6) The Minister may determine an appeal under this section by —

(a) confirming, varying or reversing any decision or direction of the Authority; or

(b) directing the Authority to reconsider its decision or direction.”.

(7) The decision of the Minister shall be final.

(8) The Minister may make regulations in respect of the manner in which an appeal may be made to the Minister under this section and the procedure to be adopted in hearing such appeals.”.

### **Amendment of section 96**

**46.** Section 96(2) of the Gas Act is amended —

(a) by deleting the words “gas licensee” in paragraphs (b) and (o) and substituting the words “gas transporter” in each case;

(b) by deleting the words “a gas transporter’s gas pipeline or gas pipeline network” in paragraph (q) and substituting the words “the gas pipeline or gas pipeline network owned by, or under the management or control of, a gas transporter”;

- (c) by inserting, immediately after the words “gas installations” in paragraph (r), the words “, onshore receiving facilities or LNG terminals”;
- (d) by inserting, immediately after paragraph (r), the following paragraph:
  - “(ra) the regulation of the inspection, maintenance, repair and renewal of gas service pipes, and the recovery of costs incurred by a gas transporter in connection with such inspection, maintenance, repair and renewal;” and
- (e) by deleting the full-stop at the end of paragraph (x)(iii) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:
  - “(y) the safety, technical or economic regulation of any LNG terminal or onshore receiving facility.”.

**Amendment of section 98**

**47. Section 98 of the Gas Act is amended —**

- (a) by deleting subsection (1) and substituting the following subsection:
  - “(1) On such date as the Minister may determine, such property (whether movable or immovable and whether tangible or intangible), rights, obligations and liabilities comprised in any gas company specified by the Minister —
    - (a) in which the Government has an interest; and
    - (b) which is agreed to by the Minister for Finance for the purposes of this section,
 (transferor undertaking) shall become, by virtue of this section and without further assurance, the property, rights, obligations and liabilities of such other gas company specified by the Minister —
    - (i) in which the Government has an interest; and
    - (ii) which is agreed to by the Minister for Finance for the purposes of this section,
 (transferee undertaking) in such manner of distribution or allocation and on such terms as to compensation or otherwise, as determined by the Minister and agreed to by the Minister for Finance and set out in a scheme under regulations made by the Minister for the purposes of this section.”; and
- (b) by inserting, immediately after subsection (7), the following subsection:
  - “(8) In this section, a reference to the Government having an interest in a gas company shall be read as a reference to the

Government having an interest in any share in the gas company, whether directly or through one or more other persons.”.

#### **Amendment of section 99**

**48.** Section 99 of the Gas Act is amended —

- (a) by deleting the word “All” in subsection (1) and substituting the words “Except as may be prescribed by the Minister, all”;
- (b) by deleting the word “affecting” in subsection (1) and substituting the words “in respect of”; and
- (c) by deleting subsection (2) and substitutes the following subsections:

“(1A) Notwithstanding subsection (1), any right, obligation or liability as may have accrued under any deed, bond, agreement or other arrangement to which subsection (1) applies prior to the date determined by the Minister under section 98(1) shall continue to be enforceable by or against the transferor undertaking and not by or against the transferee undertaking.

(2) Any proceedings, or any cause of action, relating to property, rights, obligations or liabilities transferred under section 98 pending or existing prior to the date determined by the Minister under section 98(1) by or against the transferor undertaking from which such property, rights, obligations or liabilities were transferred shall be continued, or shall be enforced, by or against the transferor undertaking, as the case may be.”

#### **Amendment of section 101**

**49.** Section 101 of the Gas Act is amended by inserting, immediately after subsection (2), the following subsections:

“(3) The Minister may, in making any regulations —

- (a) provide that any person who contravenes the regulations shall be guilty of an offence and shall be liable on conviction to a fine not exceeding 10% of the annual turnover of the person’s gas business ascertained from that person’s latest audited accounts, or an amount not exceeding S\$1 million, whichever is higher, or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction;
- (b) where the regulations require the transferor undertaking to do or not to do any thing, provide that the obligation of the transferor undertaking to comply with such regulations is a duty owed to the transferee undertaking and any breach of such duty shall be actionable at the suit or instance of the transferee undertaking who shall have a right of action for relief in civil proceedings in a

court under the relevant regulation against the transferor undertaking, subject to such limitations as the Minister may prescribe; and

- (c) where the regulations require the transferee undertaking to do or not to do any thing, provide that the obligation of the transferee undertaking to comply with such regulations is a duty owed to the transferor undertaking and any breach of such duty shall be actionable at the suit or instance of the transferor undertaking who shall have a right of action for relief in civil proceedings in a court under the relevant regulation against the transferee undertaking, subject to such limitations as the Minister may prescribe.

(4) Where the Minister issues any direction requiring any person to do or not to do any thing and the person contravenes such direction, the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding 10% of the annual turnover of the person's gas business ascertained from that person's latest audited accounts, or an amount not exceeding S\$1 million, whichever is higher, or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(5) Where the Minister issues any direction —

- (a) requiring the transferor undertaking to provide to the transferee undertaking any information, warranty or other statement; or
- (b) requiring the transferee undertaking to provide to the transferor undertaking any information, warranty or other statement,

the undertaking required to provide the information, warranty or other statement (the first-mentioned undertaking) shall be under an obligation to ensure that such information, warranty or other statement provided to the other undertaking (the second-mentioned undertaking) is not false, inaccurate, incomplete or misleading.

(6) The obligation of the first-mentioned undertaking referred to in subsection (5) is a duty owed to the second mentioned undertaking and any breach of such duty which causes the second-mentioned undertaking to sustain any loss or damage shall be actionable at the suit or instance of the second-mentioned undertaking who shall have a right of action for relief in civil proceedings in a court under this subsection against the first-mentioned undertaking, subject to such limitations as the Minister may prescribe.

(7) The court may grant to the plaintiff in an action under the relevant regulation referred to in subsection (3) or under subsection (5), as the case may be, all or any of the following reliefs:

- (a) relief by way of injunction or declaration;

(b) damages; and

(c) such other relief as the court thinks fit.

(8) No contravention by any party of any regulations or directions made under this Part shall avoid the transfer of any property, rights, obligations or liabilities effected under section 98(1).”.

### **Transitional provision**

**50.** Any person who immediately before the date on which section 6(1) of the Gas Act comes into operation has been carrying out any activity specified in section 6(1) , may continue to do so as if section 6(1) had not come into operation —

(a) for a period of 14 days (or such further period as the Authority may determine) from that date; or

(b) if, before the expiration of that period, that person applies for a licence under section 7 of the Gas Act, until the date on which the licence is granted or the application is refused or withdrawn.

**FORMAT FOR SUBMISSION OF COMMENTS ON THE PROPOSED AMENDMENTS TO THE GAS ACT**

<b>Specific Provision(s) of Proposed Amendments</b>	<b>Revised Amendments</b>	<b>Detailed Reasons for Revised Amendments</b>